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# HOUSE RESEARCH ORGANIZATION

## ———— daily floor report ————

Saturday, May 06, 2017  
85th Legislature, Number 65  
The House convenes at 9 a.m.  
Part Two

Ten bills set for second-reading consideration on today's daily calendar are analyzed or digested in Part Two of today's *Daily Floor Report*. They are listed on the following page.



Dwayne Bohac  
Chairman  
85(R) - 65

## **HOUSE RESEARCH ORGANIZATION**

### **Daily Floor Report**

**Saturday, May 06, 2017**

**85th Legislature, Number 65**

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**SUBJECT:** Providing notice of party convention information to primary voters

**COMMITTEE:** Elections — committee substitute recommended

**VOTE:** 5 ayes — Laubenberg, Israel, Fallon, Larson, Swanson  
0 nays  
2 absent — R. Anderson, Reynolds

**WITNESSES:** For — John Bucy, Texas Democratic County Chairs Association; Manny Garcia, Texas Democratic Party; (*Registered, but did not testify*: Crystal Perkins, Texas Democratic Party; John Richie, Texas Democratic County Chairs Association; Bill Fairbrother, Texas Republican County Chairmen's Association; Thomas Parkinson)  
  
Against — Chris Davis, Texas Association of Elections Administrators; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; Deborah Kelting)  
  
On — Ed Johnson, Harris County Clerk's Office; Alan Vera, Harris County Republican Party Ballot Security Committee; Keith Ingram, Texas Secretary of State-Elections Division

**BACKGROUND:** Election Code, sec. 172.1111 requires a presiding judge, before opening the polls in a primary election, to post at each outside door a written notice of the date, hour, and place for the precinct convention. The judge does not have to use an officially prescribed form for the notice.  
  
Sec. 162.004 requires a presiding judge to issue an affiliation certificate to an accepted voter who did not present a voter registration certificate.  
  
Some have raised concerns that the notice posted at the doors of the polling place is not an efficient means of informing constituencies about party conventions and other party information.

**DIGEST:** CSHB 1639 would allow a political party to prepare a notice for

distribution to each voter participating in the party's primary election at the time the voter was accepted for voting. The notice could not be larger than letter-size and could include:

- information describing the party's convention process;
- the time and place of the party's first level convention process;
- contact information for the county and state political parties; and
- website links for information and registration for party conventions.

The state chair of a political party would have to prescribe a form for notice that could be used in any county. County chairs could prescribe a specific notice for their county, but the same notice would have to be used in all precincts within a county. The notice would have to be supplied by a county chair to the authority conducting the election at least 30 days before the date early voting by personal appearance began.

The secretary of state would have to approve these notices and prescribe procedures and adopt rules necessary to implement the bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:                   A companion bill, SB 375 by V. Taylor, was referred to the Senate State Affairs Committee on February 1.

SUBJECT: Prohibiting certain city employees from fighting wildland fires

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Alvarado, Bernal, Elkins, Isaac, J. Johnson  
0 nays  
2 absent — Leach, Zedler

WITNESSES: For — Bob Nicks, Austin Firefighters Association; (*Registered, but did not testify*: Randy Moreno, Austin Firefighters; Johnny Villarreal, Houston Fire Fighters Local 341; Glenn Deshields, Texas State Association of Fire Fighters; Wayne Delanghe)  
  
Against — Tom Dodds, Austin Fire Department; Lucien Ball, City of Austin; Matt McCaw, Texas Chapter of Society for Ecological Restoration; Michelle Bertelsen; Matt O'Toole; (*Registered, but did not testify*: Clayton Huckaby, Buda Fire Department, Hays County ESD #8; David Gimnich, City of Austin; TJ Patterson, City of Fort Worth; Trent Townsend, The Nature Conservancy)  
  
On — Tim Rutland, Texas Commission on Fire Protection; (*Registered, but did not testify*: David Gimnich)

BACKGROUND: Texas Administrative Code, Title 4, part 13, sec. 225.1(16) defines prescribed burning as "The controlled application of fire to fuels under specified environmental conditions in accordance with a written prescribed burn plan."  
  
Local Government Code, ch. 143 provides requirements and standards of municipal civil service for firefighters and police officers. The provisions apply only to a municipality with a population of 10,000 or more that has a paid fire or police department and has voted to adopt this chapter.

DIGEST: HB 1009 would prohibit employees of a municipality that has adopted the fire fighters' and police officers' civil service law from performing certain

wildland firefighting duties, including conducting a prescribed burn, unless they were permanent, full-time firefighters. Municipal employees could assist in wildland firefighting activities if they were not working in their capacity as city employees and were acting as a member of a volunteer fire department. The bill would not prohibit certified fire protection personnel from performing a wildland firefighting duty, including prescribed burning, if they were supervised by a fire department authorized to act in the area.

The Texas Commission on Fire Protection would be required to adopt rules to implement this bill before January 1, 2018.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS  
SAY:**

HB 1009 would reduce safety risks associated with untrained individuals attempting to fight fires, including conducting prescribed burns, by prohibiting certain municipal employees from fighting wildland fires unless they were full-time firefighters. While prescribed burns are beneficial to reducing wildfire fuels and promoting healthy ecosystems, they also are highly dangerous and should only be attempted by trained professionals.

The bill would still allow a variety of fire department personnel to handle firefighting duties, including fire and arson investigators and certain other support or administrative staff. This flexibility would keep firefighters from being pulled away from their first responder duties in order to manage prescribed burns.

**OPPONENTS  
SAY:**

HB 1009 would reclassify prescribed burning as a wildfire-fighting duty rather than a land-management tool. Prescribed burning historically has been considered a land-management tool because it controls vegetative fuels that can contribute to wildfires and helps restore ecosystems. The bill could negatively impact certain cities that depend on municipal departments to conduct prescribed burns.

Many state and local entities have been safely conducting prescribed

burns for many years, and limiting certain wildfire firefighting duties only to fire departments would be unnecessary. Land managers already are able to manage prescribed burns due to their intimate knowledge of the topography and access points of their land. Municipal fire departments may not have the capacity to manage the necessary prescribed burns in the area, and the added responsibility could take firefighters away from more pressing duties.

**SUBJECT:** Permitting carryover pull-tab bingo with a jackpot

**COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended

**VOTE:** 6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson  
0 nays  
3 absent — Frullo, Geren, Paddie

**WITNESSES:** For — Will Martin, American Legion Department of Texas; (*Registered, but did not testify*: Steve Bresnen, Bingo Interest Group; Tom Stewart, Texas Charity Advocates; Roy Grona, Texas VFW)  
  
Against — None  
  
On — (*Registered, but did not testify*: Alfonso Royal III, Texas Lottery Commission)

**BACKGROUND:** Occupations Code, sec. 2001.420 establishes that a bingo prize may not have a value of more than \$750 for a single game. A person may not offer or award on a single bingo occasion prizes with an aggregate value of more than \$2,500 for all bingo games other than pull-tab bingo or bingo games that award individual prizes of \$50 or less. A licensed authorized organization or other person may not award or offer to award a door prize with a value of more than \$250.  
  
Some have called for the state to allow an additional form of charitable bingo called carryover pull-tab bingo, in which prizes from successive event pull-tab bingos can accumulate to form a larger prize.

**DIGEST:** CSHB 1708 would allow carryover pull-tab bingo games to award a jackpot prize of more than \$750 for a single game and would add carryover pull-tab bingo to the games in which a person could offer on a single occasion prizes with an aggregate value of more than \$2,500. The bill would cap the jackpot prize that could be awarded in a carryover pull-



tab bingo game at \$10,000.

The bill would define carryover pull-tab bingo as a form of pull-tab bingo played in successive event pull-tab bingo deals. A portion of the bingo prize awarded to the event prize winner would be paid into a jackpot prize. The winner of the event prize for each deal would have the opportunity to win the jackpot prize, and the play would continue until the jackpot prize was awarded.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

A companion bill, SB 856 by Lucio, was referred to the Senate State Affairs Committee on February 27.

**SUBJECT:** Allowing HHSC's inspector general to hire peace officers

**COMMITTEE:** General Investigating & Ethics — committee substitute recommended

**VOTE:** 6 ayes — S. Davis, Moody, Capriglione, Nevárez, Shine, Turner  
0 nays  
1 absent — Price

**WITNESSES:** For — (*Registered, but did not testify*: Hamilton Richards; Joanne Richards, Common Ground for Texans; Celia Cole, Feeding Texas; Brian Greene, Houston Food Bank; Jim Sheer, Texas Retailers Association)  
  
Against — None  
  
On — (*Registered, but did not testify*: Wayne Salter, Health and Human Services Commission; Roland Luna, Office of Inspector General; Rob Drummond, Travis County District Attorney's Office)

**BACKGROUND:** Government Code, sec. 531.1022, requires the Health and Human Services Commission's (HHSC) Office of Inspector General (OIG) to hire and commission peace officers to assist in the investigation of fraud, waste, and abuse in Medicaid.  
  
Observers note that HHSC's OIG has no statutory authority to hire peace officers to investigate fraud occurring in the Supplemental Nutrition Assistance Program and the Temporary Assistance for Needy Families program. The OIG must use local law enforcement, after sometimes-lengthy investigations, to apprehend those responsible for the fraud in these programs, which can delay the resolution of an investigation.

**DIGEST:** HB 2523 would allow the Health and Human Services Commission's Office of Inspector General to hire and commission peace officers for the purpose of assisting the office in the investigation of fraud, waste, or abuse in the Temporary Assistance for Needy Families and the Supplemental Nutrition Assistance programs.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Changing vendor requirements under the WIC program

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Keough, Miller, Minjarez, Rose, Wu  
3 nays — Frank, Klick, Swanson

WITNESSES: For — Mark Brumback; Michael Sammon  
Against — None  
On — (*Registered, but did not testify*: Evelyn Delgado, Texas Department of State Health Services)

BACKGROUND: The federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides grants to states for supplemental foods, health care referrals, and nutrition education for low-income, pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are at nutritional risk.

In all states, including Texas, WIC recipients receive their food benefits on an electronic benefit transfer (EBT) card that can only be used to buy groceries and baby formula as listed on the WIC shopping list. Recipients can use the card to pay for WIC-approved products at any store that accepts WIC.

The WIC program is a different from the federal supplemental nutrition assistance program (SNAP), commonly known as "food stamps," under Human Resources Code, ch. 33.

DIGEST: CSHB 3204 would prohibit the state from imposing requirements outside the scope of the federal special supplemental nutrition program for women, infants, and children (WIC) program for a "predominantly WIC program vendor" in a vendor agreement. The bill would define such a vendor as an individual store at a fixed location that had or was expected to have sales of approved WIC food items that exceeded 50 percent of the

store's total sales of food items eligible for purchase under the supplemental nutrition assistance program (SNAP).

In the predominantly WIC program vendor agreement, the bill would prohibit state requirements related to:

- vendor hours of operation;
- inventory stocking of food items other than approved WIC program food items; or
- restrictions on opening, closing, or relocating a store.

If a predominantly WIC program vendor changed ownership, the new owner, in applying for a new WIC vendor agreement, would be subject to the same vendor requirements as existing WIC vendor agreements.

If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary for implementing that provision, the agency affected by the provision would request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2017.

**SUPPORTERS  
SAY:**

CSHB 3204 would help ensure that small, family-owned, predominantly WIC program vendors would be treated as fairly as larger, commercial grocery stores that also carry WIC-eligible products. The bill also would maintain access to WIC program vendors for low-income Texans.

Predominantly WIC program vendors often have better locations than commercial grocery stores to serve the program's recipients, because they are located close to WIC clinics and in the neighborhoods where WIC recipients live. When these vendors go out of business, there are fewer choices for low-income Texans to get the baby formula and other groceries they need to keep their families healthy.

Under the bill, predominately WIC program vendors still would have to comply with WIC program rules. Certain predominantly WIC program vendors have reported being investigated at a higher rate by the state

compared to larger, commercial grocery stores. The violations that were filed against a small number of predominantly WIC program vendors were for minor issues unrelated to WIC such as hours of operation or clerical errors, not major issues. The bill would help ensure these vendors were investigated only for noncompliance with WIC program rules, not for unrelated issues.

According to the Legislative Budget Board's most recent estimate, CSHB 3204 would have no significant fiscal implication to the state. The Department of State Health Services has indicated that any costs associated with the bill could be absorbed within the agency's existing resources.

**OPPONENTS  
SAY:**

The existing vendor requirements do not need to be changed. The predominantly WIC program stores that were closed had violations against them, and it is part of the state's role to inspect these vendors for compliance with WIC rules. While the Legislative Budget Board estimated no significant fiscal implication to the state for the bill, it did report that provisions in the bill could result in a minimal number of additional WIC vendors, which could increase costs for the program.

**NOTES:**

According to the Legislative Budget Board's fiscal note, the bill would have no significant fiscal implication to the state. The Department of State Health Services (DSHS) anticipates that the provisions of the bill would result in a minimal number of additional vendors participating in the WIC program. DSHS indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

SUBJECT: Authorizing a public junior college to offer a baccalaureate degree

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 7 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Howard, Turner

0 nays

2 absent — Clardy, Morrison

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Roberto Zarate, Alamo Colleges District; Raymond Lewis and Jennifer Poteat, Community College Association of Texas Trustees; Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, sec. 130.0012 requires the Texas Higher Education Coordinating Board to authorize public junior colleges to offer baccalaureate degree programs in applied science and technology.

Observers note that there is a shortage in the state of health care providers, especially registered nurses, and that this need could be addressed through the creation of nursing baccalaureate degree programs at junior colleges.

DIGEST: HB 3629 would require the Texas Higher Education Coordinating Board to authorize a baccalaureate degree program in nursing to be offered by the Brazosport College District. Offering the degree program would not otherwise alter the role and mission of a public junior college.

The bill would take immediate effect if finally passed by a two-thirds vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUBJECT:** Creating the County Jail Telemental Health Fund

**COMMITTEE:** County Affairs — committee substitute recommended

**VOTE:** 8 ayes — Coleman, Springer, Biedermann, Hunter, Neave, Stickland, Thierry, Uresti

0 nays

1 absent — Roberts

**WITNESSES:** For — Jim Allison, County Judges and Commissioners Association of Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Dennis D. Wilson, Sheriffs' Association of Texas; *(Registered, but did not testify)*: Reginald Smith, Communities for Recovery; Latosha Taylor, Grassroots Leadership; Grace Chimene, League of Women Voters of Texas; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries of South Texas; Eric Kunish, National Alliance on Mental Illness; Rick Thompson, Texas Association of Counties; Lee Johnson, Texas Council of Community Centers; Sara Gonzalez, Texas Hospital Association; Joseph Green, Travis County Commissioners Court; Woodrow Gossom, Wichita County)

Against — None

On — Brandon Wood, Texas Commission on Jail Standards

**BACKGROUND:** Some observers have suggested that while a significant percentage of inmates have a mental illness or substance abuse disorder, county jails may lack certain access to mental health services, especially in rural areas.

**DIGEST:** CSHB 4117 would create the County Jail Telemental Health Fund as a dedicated account in the general revenue fund. The fund would consist of appropriations by the Legislature and gifts, donations, and grants, including federal grants.

The bill also would require the Commission on Jail Standards to adopt



reasonable rules and procedures to ensure prisoner safety, including those requiring a county jail to have the ability to access a mental health professional on site or through a telemental health service 24 hours a day. The commission also could establish a grant program by rule to fund county programs, training, or capital improvements in a county jail.

Money in the County Jail Telemental Health Fund could be appropriated to the commission only for programs, training, and capital improvements necessary to implement or improve telemental health services in county jails with a certified capacity of 96 or fewer prisoners.

The commission would be required to adopt rules and procedures provided by this bill by September 1, 2018. County jails would have to comply with these rules and procedures beginning September 1, 2020.

To the extent of any conflict, the bill would prevail over another act of the 85th Legislature relating to nonsubstantive additions and corrections to code.

The bill would take effect September 1, 2017.

NOTES:

According to the Legislative Budget Board's fiscal note, there could be an indeterminate cost to the state to establish a telemental health dedicated fund, depending on the funding provided by certain sources. The Texas Commission on Jail Standards would require an additional full-time employee to administer the grant program which would cost an estimated \$83,782 in fiscal 2018 and \$82,682 each subsequent year.

The fiscal impact to some local governments also could be significant. According to the commission, 130 county jails currently do not employ or contract for a mental health professional.

**SUBJECT:** Prohibiting improper conduct between teacher and students

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 7 ayes — Huberty, Bernal, Bohac, Gooden, K. King, Koop, VanDeaver  
0 nays  
4 absent — Allen, Deshotel, Dutton, Meyer

**WITNESSES:** For — Lonnie Hollingsworth, Texas Classroom Teachers Association; Columba Wilson; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators)  
  
Against — None  
  
On — Ted Melina Raab, Texas AFT (American Federation of Teachers); Ramiro Canales, Texas Association of School Administrators; Colby Nichols, Texas Rural Education Association, Powell and Leon, LLP; (*Registered, but did not testify*: Von Byer, Laura Moriaty, and Doug Phillips, Texas Education Agency; Rebecca Flores, Texas School Alliance)

**BACKGROUND:** The Texas Education Agency, which investigates teacher misconduct, notes an increased case volume of inappropriate relationships between educators and students. The agency indicates the number of new cases increased by 20 percent from fiscal 2011 to fiscal 2015.

**DIGEST:** CSHB 3769 would prohibit sexual conduct between an educator and a student regardless of whether the student was enrolled in the district where the teacher worked. It also would make it a crime for a principal or superintendent to intentionally conceal a teacher's conduct and would require districts to adopt policies on electronic communications between teachers and students.

**Educator conduct.** The bill would amend Penal Code, sec. 21.12 to make it a crime for certain employees of a public or private primary or

secondary school to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with any student the employee knew was enrolled in any public or private primary or secondary school. An employee would a teacher, teacher intern or trainee, librarian, diagnostician, or school counselor, regardless of whether the employee held the appropriate certificate, permit, license, or credential for the position.

**Principals and superintendents.** A principal would be required to notify the district superintendent or charter school director no later than seven business days after the date of an educator's termination or resignation following an alleged incident of misconduct related to abuse or sexual contact with a student or the date the principal found out about an educator's criminal record. A principal who failed to provide the notice on time with intent to conceal an educator's criminal record or alleged misconduct would commit a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

The bill would add an administrative penalty of between \$500 and \$10,000 for superintendents who failed to file a required written report to the State Board for Educator Certification (SBEC) within seven business days concerning an educator's criminal record or alleged incident of misconduct. SBEC could not renew the certification of a superintendent until the penalty was paid. A superintendent or director who failed to file a report on time with intent to conceal an educator's criminal record or alleged misconduct would commit a state-jail felony.

**License revocation.** In addition to current law, the certification of an educator would be automatically revoked and employment terminated if the educator was placed on deferred adjudication community supervision for an offense for which he or she was required to register as a sex offender, or if the victim was under 18 at the time the offense was committed.

SBEC also could suspend or revoke a certificate, impose other sanctions, or refuse to issue a certificate to someone who assisted another person in obtaining employment at a district or charter school and knew that person had previously engaged in sexual misconduct with a minor or student in

violation of the law. The routine transmission of administrative and personnel files would not constitute assistance.

**Investigations.** The Commissioner of Education would be authorized, during an investigation by the agency for an alleged incident of misconduct, to issue a subpoena to compel the attendance of a relevant witness. The bill would allow a district or charter school to give the Texas Education Agency a document evaluating the performance of a teacher or administrator for purposes on an investigation. Such a document would remain confidential unless it became part of the record in a contested case.

**Training.** Educator preparation programs and SBEC continuing education requirements for a classroom teacher would be required to include information on appropriate relationships, boundaries, and communications between educators and students. Continuing education requirements for a principal would include instruction on preventing, recognizing, and reporting prohibited sexual conduct between an educator and a student.

**Electronic communication policy.** A district would be required to adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district. The policy would allow employees to elect to not disclose personal telephone numbers and e-mail addresses and would be designed to prevent improper electronic communications between employees and students and to instruct employees about the proper method for notifying appropriate local administrators about an incident in which a student engaged in improper communications with the school employee.

**Other provisions.** The Commissioner of Education could authorize special accreditation investigations to be conducted when a school district for any reason failed to produce requested evidence or an investigation report relating to an educator who was under investigation by SBEC.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

**NOTES:**

A companion bill, SB 7 by Bettencourt, was placed on the May 5 House general state calendar for second-reading consideration.

SUBJECT: Protecting religious rights for child welfare services providers.

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Cook, Craddick, Geren, Guillen, Kuempel, Meyer, Paddie, Smithee

3 nays — Farrar, Oliveira, E. Rodriguez

1 absent — K. King

1 present not voting — Giddings

WITNESSES: For — Randy Daniels, Buckner Children & Family Services; Sara Ramirez, Catholic Diocese of Austin; Cecilia Wood, Center for the Preservation of American Ideals; Lynn Harms, Children's Home of Lubbock; Gus Reyes, Christian Life Commission of Texas Baptists; Chelsey Youman, First Liberty Institute; Bethany Reese, Texas Baptist Home; Jennifer Allmon, The Texas Catholic Conference of Bishops; Sherri Statler; (*Registered, but did not testify*: Frank Rynd, Archdiocese of Galveston-Houston; David Hardage, Baptist General Convention of Texas; Tim Ottinger, Catholic Health Association of Texas; Kyleen Wright, Texans for Life; Jenny Andrews, Texas Alliance for Life; Joe Pojman, Texas Alliance for Life; Elisabeth Wheatley, Texas Alliance for Life; Jennifer Walker, Texas Baptist Home for Children; Emma Little, Texas Home School Coalition; Anna Little, Texas Home School Coalition; John Seago, Texas Right to Life; Nicole Hudgens, Texas Values Action; Jonathan Saenz, Texas Values Action; Michael Geary, The Texas Conservative Coalition; and six individuals)

Against — Rebecca Robertson, ACLU of Texas; Laura Ratzel, Adoption Advocates; Erin Smith, Adoption Advocates; Ash Hall, Equality Texas; Chuck Smith, Equality Texas; Denise Brogan-Kator, Family Equality Council; Will Francis, National Association of Social Workers-Texas Chapter; Katherine Barillas, One Voice Texas; Kate Murphy, Texans Care for Children; Katherine Miller, Texas Freedom Network; Joshua Houston, Texas Impact; Lauryn Farris, Transgender Education Network of Texas;

Chuck Freeman, Texas Unitarian Universalist Justice Ministry; and 10 individuals; (*Registered, but did not testify*: Catherine Lisa Humphrey, Anti-Defamation League; Tom Noonan, Austin CVB; Joey Gidseg, Austin Justice Coalition; Keller Davis, Createscape Coworking; Danny Fetonte, DSA; Joe Collin Acock, Equality Texas; Bradley O'Furey, Equality Texas; Robert Salcido, Equality Texas; Leah Gonzalez, Healthy Futures of Texas; Elizabeth Baskin, Human Rights Campaign; Bailey Morrison, Human Rights Campaign; Carla Blakey, Julie Fleming, and Courtney Szigetvari, Left Up To Us; Zoe Fay-Stindt, Literary Women in Action; Blake Rocap, NARAL Pro-Choice Texas; Anna Nguyen, PFLAG Austin; Lucy Stein, Progress Texas; Shannon Noble, Texas Counseling Association; John Elford, Texas Freedom Network; Susan Bradley, Vicki Clark Bradley, Yolanda Griego, and Reuben Leslie, Texas State Employees Union; Mary Harris, TFN; John Burleson, Travis County Resistance; Larry Bethune, University Baptist Church; and 74 individuals)

On — Brantley Starr, Office of Attorney General; (*Registered, but did not testify*: Audrey Carmical, Department of Family and Protective Services)

DIGEST:

CSHB 3859 would add a new chapter to the Human Resources Code entitled Protection of Rights of Conscience for Child Welfare Services Providers. The stated legislative intent of the chapter would be to maintain a diverse network of service providers that offered a range of foster capacity options and that accommodated children from various cultural backgrounds. The intent would state that decisions regarding the placement of children would continue to be made in the best interest of the child and which person would be able to provide for the child's physical, psychological, and emotional needs and development.

The bill would define child welfare services to include a variety of services, including recruiting foster parents and placing children in foster or adoptive homes; counseling children or parents; and providing residential care.

It would prohibit a governmental entity or any person that contracts with the state or operates under governmental authority to refer or place children for child welfare services from discriminating or taking any adverse action against a child welfare services provider on the basis,

wholly or partly, that the provider:

- has declined or would decline to provide, facilitate, or refer a person for child welfare services that conflict with, or under circumstances that conflict with, the provider's sincerely held religious beliefs;
- provides or intends to provide children under the control, care, guardianship, or direction of the provider with a religious education, including placing the children in a private or parochial school;
- has declined or would decline to provide, facilitate, or refer a person for abortions, contraceptives, or drugs, devices, or services that were potentially abortion-inducing; or
- refused to enter into a contract that was inconsistent with or would in any way interfere with or force a provider to surrender the rights created by the new chapter.

Adverse action would mean any action that directly or indirectly adversely affected the person against whom the adverse action was taken, placed the person in a worse position than the person was in before the adverse action was taken, or was likely to deter a reasonable person from acting or refusing to act.

As adverse action would include:

- denying an application for, refusing to renew, or canceling funding;
- declining to enter into, refusing to renew, or canceling a contract;
- declining to issue, refusing to renew, or canceling a license;
- terminating, suspending, demoting, or reassigning a person, and
- limiting the ability of a person to engage in child welfare services.

A child welfare services provider, as defined in the bill, could not be required to provide any service that conflicted with the provider's sincerely held religious beliefs.

**Secondary providers.** The bill would require a governmental entity or

any person that operated under governmental authority to refer or place children for child welfare services to ensure that a secondary provider was available in that catchment, or geographic, area or a nearby catchment area.

**Legal claims.** A child welfare services provider would be allowed to assert an actual or threatened violation of the rights contained in the chapter as a claim or defense in a judicial or administrative proceeding and would be entitled to recover declaratory or injunctive relief.

The bill would waive sovereign and governmental immunity to suit but would establish that its provisions do not waive or abolish sovereign immunity to suit under the 11th Amendment to the U.S. Constitution.

The bill would set out provisions establishing the intended consequences, interpretations, and effect of the bill's provisions with regard to other laws and rights.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

The Legislative Budget Board said it could not determine the fiscal implications of the bill because it is unknown how many child welfare providers would decline to provide services to individuals and then use the cause of action in response to adverse action by DFPS.



SUBJECT: Transferring a painting to the General Land Office

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Herrero, Bell, Bailes, Blanco, Faircloth, Krause, Stucky  
0 nays

WITNESSES: For — None  
Against — None  
On — (*Registered, but did not testify*: Mark Lambert, General Land Office; Sacha Jacobson)

BACKGROUND: Observers have pointed out that while the painting "The Spirit of the Alamo Lives On" by George Skypeck was donated to the Veterans Commission, the commission does not have the capacity to reproduce and retail the painting to raise money for Texas veterans. Some have suggested that the General Land Office, in coordination with the State Preservation Board and capitol gift shop, have the capacity to reproduce and retail the painting to support veterans' causes in the state.

DIGEST: HB 1644 would transfer charge and control of the painting entitled "The Spirit of the Alamo Lives On" by George Skypeck from the Veterans Commission to the General Land Office by December 1, 2017.  
  
The bill would take effect September 1, 2017.